

REMARKS

Applicant submits this Reply to the Office Action mailed July 31, 2008. By this Reply, Applicant proposes to amend independent claims 15 and 29. Accordingly, claims 15 and 19-33 remain pending in this application. The originally-filed application fully supports the subject matter of amended claims 15 and 29. Thus, this Reply introduces no new matter.

In the Office Action, claims 15 and 19-28 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Office Action alleged that “[t]he specification is silent on a sensor that detects the speeds of the various stages of the cylinder.” Office Action at 2. Applicant disagrees with the Office Action’s characterization that the specification is silent on sensors that detect speeds of the various stages of the cylinder. However, in order to advance prosecution, Applicant has amended independent claim 15, from which claims 19-28 ultimately depend, to overcome this rejection and requests withdrawal of the Section 112, first paragraph, rejection of claims 15 and 19-28.

In the Office Action, claims 15, 19-22, and 25-33 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,112,823 to Liberman et al. (“Liberman”), and claims 23 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Liberman in view of U.S. Patent No. 4,522,551 to Henneberry (“Henneberry”). Applicant respectfully traverses these rejections for at least the reasons provided below.

With respect to independent claim 15, Liberman fails to disclose or even suggest, among other things, “wherein the speed control automatically changes the flow rate of

the fluid input to the cylinder based on the position of the cylinder during the extension stroke." Liberman states that

[f]or any particular hydraulic cylinder, knowing a length increment and the flow capacity of a constant flow rate pump supplying hydraulic fluid to the cylinder, the time period can readily be determined during which hydraulic fluid must be admitted to the cylinder so that the cylinder extends a distance equal to one length increment.

Liberman, col. 4, ll. 18-25. Liberman further states that "[t]o determine the proper time period for an hydraulic cylinder to be regulated such that cylinder elongation is intermittent and an essentially constant function with respect to time, the length of the cylinder stroke is subdivided into a plurality of equal length intervals." Liberman, col. 4, ll. 14-18. Liberman adds that "by controlling the time interval between length increments, the overall time required to completely extend an hydraulic cylinder may be varied." Liberman, col. 4, ll. 43-45. Liberman also discloses limit switches that "alter the time period set in the second timer circuit 30 . . . such that, for each successive stage of the cylinder 42, the valve 90 will be opened for an appropriate brief interval to provide equal length increments for each of the successive stages." Liberman, col. 6, ll. 18-23.

Liberman fails to disclose, or even suggest, "wherein the speed control automatically changes the flow rate of the fluid input to the cylinder based on the position of the cylinder during the extension stroke," as recited in claim 15. Instead, Liberman discloses that "by controlling the time interval between length increments, the overall time required to completely extend an hydraulic cylinder may be varied." Liberman, col. 4, ll. 43-45. That is, whereas the claimed invention includes a speed control that automatically changes the flow rate of the fluid input to the cylinder based on the position of the cylinder during the extension stroke, Liberman instead discloses

"controlling the time interval between length increments." Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of claim 15 and its dependent claims 19-22 and 25-28.

Regarding independent claim 29, similar to the remarks presented above in connection with claim 15, Applicant submits that Liberman fails to disclose, or even suggest, each and every element of the claim. For example, Liberman fails to disclose, among other things, "wherein the motor is configured to receive a first fluid flow rate input to drive the ejector at a first speed during a first portion of an ejection stroke and receive a second fluid flow rate input, different from the first fluid flow rate input, to drive the ejector at a second speed during a second portion of the ejection stroke," as recited in claim 29. As noted above, Liberman discloses limit switches that "alter the time period set in the second timer circuit 30 . . . such that, for each successive stage of the cylinder 42, the valve 90 will be opened for an appropriate brief interval to provide equal length increments for each of the successive stages." Liberman, col. 6, ll. 18-23. Liberman does not disclose or suggest at least the above recitation of claim 29. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of claim 29 and its dependent claims 30-33.

Claims 23 and 24 depend from independent claim 15 and include all the features of claim 15. With respect to the rejection of claims 23 and 24 under 35 U.S.C. § 103(a) as being unpatentable over Liberman in view of Henneberry, Applicant submits that Liberman, either alone or in combination with Henneberry, does not disclose each and every element of claims 23 and 24. This is because Henneberry fails to remedy the deficiencies of Liberman noted above with respect to independent claim 15. For

example, Henneberry fails to disclose or suggest, among other things, "wherein the speed control automatically changes the flow rate of the fluid input to the cylinder based on the position of the cylinder during the extension stroke," as recited in independent claim 15.

Indeed, the Office Action does not rely on Henneberry for disclosing the above recitation. Instead, the Office Action alleges that Henneberry discloses "a hydraulic control for an ejection plate with an overpressure sensor." Office Action at 4. Even assuming this allegation is correct, which Applicant does not concede, it does not constitute a teaching of the above recitation of claim 15. Accordingly, claims 23 and 24 are allowable for at least the same reasons that claim 15 is allowable. Withdrawal of the 35 U.S.C. § 103(a) rejected is respectfully requested.

Applicant respectfully requests that this Reply under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 15 and 19-33 in condition for allowance. Applicant submits that the proposed amendments of claims 15 and 29 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Reply should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Reply would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the Reply would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Reply, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicant does not necessarily agree. Unless expressly noted otherwise, Applicant declines to subscribe to any statement or characterization in the Office Action.

In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

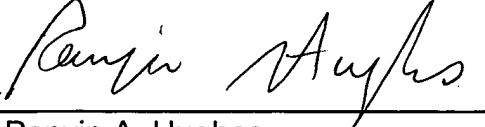
Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: October 28, 2008

By:


Panyin A. Hughes
Reg. No. 55,288